

79TH CONGRESS
1ST SESSION

H. R. 2232

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1945

Mrs. NORTON introduced the following bill; which was referred to the Committee on Labor

A BILL

To prohibit discrimination in employment because of race, creed, color, national origin, or ancestry.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Employment Prac-
4 tice Act".

5 FINDINGS AND DECLARATION OF POLICY

6 SEC. 2. (a) The Congress hereby finds—

7 (1) that the practice of discriminating in the matter
8 of employment, and in matters relating thereto, against
9 properly qualified persons because of their race, creed,
10 color, national origin, or ancestry leads to domestic and
11 industrial strife and unrest and forces large segments of

1 the population permanently into substandard conditions
2 of living, thereby creating a drain upon the resources of
3 the Nation and a constant threat to the maintenance of
4 industrial peace and of the standard of living necessary
5 to the health, efficiency, and well-being of workers; and

6 (2) that the existence of such practices in industries
7 engaged in commerce or in the production of goods for
8 commerce causes the means and instrumentalities of com-
9 merce to be used to spread and perpetuate such condi-
10 tions throughout the several States and causes diminu-
11 tion of employment and wages in such volume as sub-
12 stantially to impair and disrupt the market for goods in
13 commerce, and burdens, hinders, and obstructs commerce.

14 (b) Individuals shall have the right to work with-
15 out discrimination against them because of their race, creed,
16 color, national origin, or ancestry.

17 (c) It is hereby declared to be the policy of the Con-
18 gress to protect such right and to eliminate all such dis-
19 criminations to the fullest extent permitted by the Constitu-
20 tion. This Act shall be construed to effectuate such policy.

21 DEFINITIONS

22 SEC. 3. As used in this Act—

23 (a) The term "person" means an individual, partner-
24 ship, association, corporation, legal representative, trustee,
25 trustee in bankruptcy, receiver, or any organized group of

1 persons, and includes any agency or instrumentality of the
2 United States or of any Territory or possession thereof.

3 (b) The term "employer" means a person having in
4 his employ six or more individuals, or any other person
5 acting in the interest of such an employer, directly or in-
6 directly.

7 (c) The term "labor union" means any organization,
8 having six or more members, in which employees partici-
9 pate and which exists for the purpose, in whole or in part,
10 of dealing with employers concerning grievances, or terms
11 or conditions of employment.

12 (d) The term "commerce" means trade, traffic, com-
13 merce, transportation, or communication among the several
14 States; or between any State or Territory, or the District
15 of Columbia, and any place outside thereof; or within the
16 District of Columbia or any Territory; or between points in
17 the same State but through any point outside thereof.

18 (e) The term "affecting commerce" means in com-
19 merce, or burdening or obstructing commerce or the free
20 flow of commerce, or having led or tending to lead to a
21 labor dispute burdening or obstructing commerce or the
22 free flow of commerce.

23 (f) The term "Commission" means the Fair Employ-
24 ment Practice Commission created by section 6.

1 **RIGHT TO FREEDOM FROM DISCRIMINATION IN**
2 **EMPLOYMENT**

3 SEC. 4. The right to work and to seek work without
4 discrimination because of race, creed, color, national origin,
5 or ancestry is declared to be an immunity of all citizens
6 of the United States, which shall not be abridged by any
7 State or by an instrumentality or creature of the United
8 States or of any State.

9 UNFAIR EMPLOYMENT PRACTICES DEFINED

10 SEC. 5. (a) It shall be an unfair employment practice
11 for the purposes of this Act for any employer—

(1) to refuse to hire any individual because of such individual's race, creed, color, national origin, or ancestry;

14 (2) to discharge any individual from employment
15 because of such individual's race, creed, color, national
16 origin, or ancestry;

17 (3) to discriminate against any individual in the
18 matter of compensation with respect to, or in other terms
19 or conditions of, employment because of such individual's
20 race, creed, color, national origin, or ancestry; or

21 (4) to confine or limit recruitment or hiring of
22 individuals for employment to any employment agency,
23 placement service, training school or center, labor union
24 or organization, or any other source that discriminates

1 against individuals because of their race, color, creed, na-
2 tional origin, or ancestry.

3 (b) It shall be an unfair employment practice for the
4 purposes of this Act for any labor union—

5 (1) to deny full membership rights and privileges
6 to any individual because of such individual's race, creed,
7 color, national origin, or ancestry;

8 (2) to expel from membership any individual be-
9 cause of such individual's race, creed, color, national
10 origin, or ancestry; or

11 (3) to discriminate against any member, em-
12 ployer, employee, or individual seeking employment,
13 because of his race, creed, color, national origin, or
14 ancestry.

15 (c) It shall be unfair employment practice for the
16 purposes of this Act for any employer or labor union to
17 discharge, expel, or otherwise discriminate against any per-
18 son because such person has opposed any practice which
19 constitutes an unfair employment practice under this Act or
20 has filed a charge, testified, or assisted in any proceeding
21 under this Act.

22 FAIR EMPLOYMENT PRACTICE COMMISSION

23 SEC. 6. (a) For the purpose of securing enforcement
24 of the foregoing rights and preventing unfair employment

1 practices, there is hereby created a commission to be known
2 as the Fair Employment Practice Commission, which shall
3 be composed of five members who shall be appointed by the
4 President, by and with the advice and consent of the Senate.
5 One of the original members shall be appointed for a term
6 of one year, one for a term of two years, one for a term of
7 three years, one for a term of four years, and one for a term
8 of five years, but their successors shall be appointed for
9 terms of five years each, except that any individual chosen
10 to fill a vacancy shall be appointed only for the unexpired
11 term of the member whom he shall succeed. The President
12 shall designate one member to serve as chairman of the
13 Commission. Any member of the Commission may be re-
14 moved by the President upon notice and hearing for neglect
15 of duty or malfeasance in office, but for no other cause.

16 (b) A vacancy in the Commission shall not impair the
17 right of the remaining members to exercise all the powers of
18 the Commission and three members of the Commission shall
19 at all times constitute a quorum.

20 (c) The Commission shall have an official seal which
21 shall be judicially noticed.

22 (d) The Commission shall at the close of each fiscal
23 year report to the Congress and to the President concerning
24 the cases it has heard, the decisions it has rendered, the names,
25 salaries, and duties of all employees and officers in its employ

1 or under its supervision, and an account of all moneys it has
2 disbursed, and shall make such further reports on the cause
3 of, and means of alleviating discrimination, and such recom-
4 mendations for further legislation as may appear desirable.

5 (e) Each member of the Commission shall receive a sal-
6 ary at the rate of \$10,000 a year, and shall not engage in
7 any other business, vocation, or employment.

8 (f) When three members of the Commission have
9 qualified and taken office, the Committee on Fair Employ-
10 ment Practice established by Executive Order Numbered
11 9346 of May 27, 1943, shall cease to exist. All employees
12 of the said Committee shall then be transferred to and be-
13 come employees of the Commission, and all records, papers,
14 and property of the Committee shall then pass into the pos-
15 session of the Commission.

16 (g) The principal office of the Commission shall be in
17 the District of Columbia, but it may meet and exercise any
18 or all of its powers at any other place and may establish
19 such regional offices as it deems necessary. The Commis-
20 sion may, by one or more of its members or by such agents
21 or agencies as it may designate, conduct any investigation,
22 proceeding, or hearing necessary to its functions in any
23 part of the United States.

24 (h) The Commission shall have power—

25 (1) to appoint such officers and employees as it

1 deems necessary to assist it in the performance of its
2 functions;

3 (2) to cooperate with or utilize regional, State,
4 local, and other agencies and to utilize voluntary and un-
5 compensated services;

6 (3) to pay to witnesses whose depositions are taken
7 or who are summoned before the Commission or any
8 of its agents or agencies the same witness and mileage
9 fees as are paid to witnesses in the courts of the United
10 States;

11 (4) to furnish to persons subject to this Act such
12 technical assistance as they may request to further their
13 compliance with this Act or any order issued thereunder;
14 and

15 (5) to make such technical studies as are appro-
16 priate to effectuate the purposes and policies of this
17 Act and to make the results of such studies available to
18 interested Government and nongovernmental agencies.

19 **PREVENTION OF UNFAIR EMPLOYMENT PRACTICES**

20 **SEC. 7. (a)** The Commission is empowered, as pro-
21 vided in this section—

22 (1) to prevent unfair employment practices by
23 employers affecting commerce;

24 (2) to prevent unfair employment practices by
25 employers who are parties to contracts with the United

1 States or any Territory or possession thereof, or with
2 any agency or instrumentality of any of the foregoing,
3 and by employers performing, pursuant to subcontract
4 or otherwise, any work required for the performance of
5 any such contract;

6 (3) to prevent unfair employment practices by
7 agencies and instrumentalities of the United States,
8 and of the Territories and possessions thereof; and

9 (4) to prevent unfair employment practices by
10 labor unions affecting commerce.

11 (b) Whenever it is alleged that any person has engaged
12 in any such unfair employment practice, the Commission, or
13 any referee, agent, or agency designated by the Commission
14 for such purposes, shall have power to issue and cause to be
15 served upon such person a complaint stating the charges in
16 that respect and containing a notice of hearing before the
17 Commission or a member thereof, or before a designated
18 referee, agent, or agency at a place therein fixed not less
19 than ten days after the serving of said complaint.

20 (c) The person so complained of shall have the right
21 to file an answer to such complaint and to appear in person
22 or otherwise, with or without counsel, and give testimony
23 at the place and time fixed in the complaint.

24 (d) If upon the record, including all the testimony

1 taken, the Commission shall find that any person named in
2 the complaint has engaged in any such unfair employment
3 practice, the Commission shall state its findings of fact and
4 shall issue and cause to be served on such person an order
5 requiring such person to cease and desist from such unfair
6 employment practice and to take such affirmative action,
7 including reinstatement or hiring of employees with or with-
8 out back pay, as will effectuate the policies of this Act.
9 If upon the record, including all the testimony taken, the
10 Commission shall find that no person named in the com-
11 plaint has engaged in any such unfair employment practice,
12 the Commission shall state its findings of fact and shall issue
13 an order dismissing the said complaint.

14 JUDICIAL REVIEW

15 SEC. 8. Except as provided in section 12 (relating to
16 the enforcement of orders directed to Government agencies),
17 orders of the Commission shall be subject to judicial enforce-
18 ment and judicial review in the same manner, to the same
19 extent, and subject to the same provisions of law, as in the
20 case of orders of the National Labor Relations Board.

21 INVESTIGATORY POWERS

22 SEC. 9. (a) For the purpose of all investigations, pro-
23 ceedings, or hearings which the Commission deems neces-
24 sary or proper for the exercise of the powers vested in it by
25 this Act, the Commission, or its authorized agents or agen-

1 cies, shall at all reasonable times have the right to examine
2 or copy any evidence of any person being investigated or
3 proceeded against relating to any such investigation, pro-
4 ceeding, or hearing.

5 (b) Any member of the Commission shall have power
6 to issue subpoenas requiring the attendance and testimony of
7 witnesses and the production of any evidence relating to any
8 investigation, proceeding, or hearing before the Commission,
9 its member, agent, or agency conducting such investigation,
10 proceeding, or hearing.

11 (c) Any member of the Commission, or any agent
12 or agency designated by the Commission for such purposes,
13 may administer oaths, examine witnesses, and receive
14 evidence.

15 (d) Such attendance of witnesses and the produc-
16 tion of such evidence may be required, from any place
17 in the United States or any Territory or possession thereof,
18 at any designated place of hearing.

19 (e) In case of contumacy or refusal to obey a sub-
20 pena issued to any person under this Act, any district
21 court of the United States or the United States courts
22 of any Territory or possession, or the District Court of
23 the United States for the District of Columbia, within the
24 jurisdiction of which the investigation, proceeding, or hear-
25 ing is carried on or within the jurisdiction of which said

1 person guilty of contumacy or refusal to obey is found or
2 resides or transacts business, upon application by the Com-
3 mission shall have jurisdiction to issue to such person an
4 order requiring such person to appear before the Commis-
5 sion, its member, agent, or agency, there to produce evi-
6 dence if so ordered, or there to give testimony relating
7 to the investigation, proceeding, or hearing; any failure
8 to obey such order of the court may be punished by it
9 as a contempt thereof.

10 (f) No person shall be excused from attending and
11 testifying or from producing documentary or other evidence
12 in obedience to the subpoena of the Commission, on the
13 ground that the testimony or evidence required of him may
14 tend to incriminate him or subject him to a penalty or
15 forfeiture; but no individual shall be prosecuted or subjected
16 to any penalty or forfeiture for or on account of any trans-
17 action, matter, or thing concerning which he is compelled,
18 after having claimed his privilege against self-incrimination,
19 to testify or produce evidence, except that such individual
20 so testifying shall not be exempt from prosecution and pun-
21 ishment for perjury committed in so testifying.

22

RULES AND REGULATIONS

23

SEC. 10. The Commission shall have authority from
24 time to time to issue such regulations as it deems necessary

1 to carry out the provisions of this Act, and to amend or
2 rescind, from time to time, any such regulation whenever
3 it deems such amendment or rescission necessary to carry out
4 the provisions of this Act. If, within sixty days after the
5 issuance of any such regulation or of an amendment to any
6 such regulation, there is passed a concurrent resolution of
7 the two Houses of the Congress stating in substance that
8 Congress disapproves such regulation or amendment, as the
9 case may be, such regulation or amendment, as the case may
10 be, shall not be effective after the date of the passage of such
11 concurrent resolution; and after the date of the passage of
12 such concurrent resolution, no regulation or amendment hav-
13 ing the same effect as that concerning which the concurrent
14 resolution was passed shall be issued by the Commission.

15 Regulations issued under this section shall include the
16 procedure for service and amendment of complaints, for
17 intervention in proceedings before the Commission, for the
18 taking of testimony and its reduction to writing, for the
19 modification of the findings or orders prior to the filing of
20 records in court, for the service and return of process, the
21 qualification and disqualification of members and employees
22 and any other matters appropriate in the execution of the
23 provisions of this Act.

1 INCLUSION OF ANTIDISCRIMINATION CLAUSE
2 IN GOVERNMENT CONTRACTS

3 SEC. 11. (a) Every contract to which the United
4 States, or any Territory or possession thereof, or any agency
5 or instrumentality of any of the foregoing, is a party (except
6 such classes of contracts as the Commission may by regula-
7 tion issued under section 10 exempt from the scope of this
8 section) shall contain a provision under which—

9 (1) the contractor agrees that during the period
10 required for the performance of the contract he will not
11 engage in any unfair employment practices; and

12 (2) the contractor agrees that he will include a
13 provision in each subcontract made by him for the per-
14 formance of any work required for the performance of
15 his contract a provision under which the subcontractor
16 agrees—

17 (A) that during the period required for the
18 performance of the subcontract, the subcontractor
19 will not engage in any unfair employment practices;
20 and

21 (B) that the subcontractor will include in each
22 subcontract made by him provisions corresponding
23 to those required in subparagraph (A) and this
24 subparagraph.

25 (b) Unless the Commission shall otherwise direct, no

1 contract shall be made by the United States, or any Terri-
2 tory or possession thereof, or any agency or instrumentality
3 of any of the foregoing, with any person found pursuant
4 to this Act to have engaged in any unfair employment prac-
5 tice, or with any corporation, partnership, association, or
6 other organization, in which such person owns a controlling
7 interest, for a period (to be fixed by the Commission) not
8 to exceed one year from the date on which such practice
9 was so found to have been engaged in. The Commission
10 may, by subsequent order, for good cause shown reduce
11 any period so fixed. The Comptroller General of the United
12 States shall distribute to all agencies and instrumentalities
13 of the United States, and to the appropriate officials in the
14 Territories and possessions of the United States, lists con-
15 taining the names of such persons, corporations, partnerships,
16 associations, and organizations.

17 ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT

18 AGENCIES

19 SEC. 12. The provisions of section 8 (providing for judi-
20 cial enforcement and judicial review of orders of the Com-
21 mission) shall not apply with respect to an order of the
22 Commission under section 7 directed to any agency or
23 instrumentality of the United States, or of any Territory or
24 possession thereof. In the case of any such order, the Com-
25 mission may request the President to take such action as

1 he deems appropriate to secure compliance with such order,
2 which may include the summary discharge of any officer or
3 employee of any such agency or instrumentality who, in
4 the opinion of the President or such person as the President
5 may designate, has willfully failed to comply with such order.

6 WILLFUL INTERFERENCE WITH COMMISSION AGENTS

7 SEC. 13. Any person who shall willfully resist, prevent,
8 impede, or interfere with any member of the Commission or
9 any of its referees, agents, or agencies, in the performance
10 of duties pursuant to this Act, shall be punished by a fine
11 of not more than \$5,000 or by imprisonment for not more
12 than one year, or both.

13 SEPARABILITY CLAUSE

14 SEC. 14. If any provision of this Act or the application
15 of such provision to any person or circumstance shall be held
16 invalid, the remainder of such Act or the application of such
17 provision to persons or circumstances other than those as to
18 which it is held invalid shall not be affected thereby.

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By Mrs. NORTON

FEBRUARY 16, 1945
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